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TRANSCRIPT OF PROCEEDINGS

Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:

DOCKET NO.: 92-35

PARRISH, ALABAMA

DATE OF HEARING: JUNE 29, 1992 VOLUME: 2
PLACE OF HEARING: WASHINGTON, D.C. PAGES: 73-256



CAROL J. THOMAS STENOTYPE
REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
(703) 273-9221

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

-----X
In the Matter of: VOLUME 2
PARRISH, ALABAMA: Docket No. 92-35
-----X

The above-entitled matter came on for Hearing,
pursuant to notice, before RICHARD L. SIPPEL, Administrative
Law Judge, at 2000 L Street, N.W., Courtroom 2, Washington,
D.C., Monday, June 29, 1992, at 9:30 a.m.

APPEARANCES:

On Behalf of Brown Communications:

JIMMY D. BROWN

4002 McIngvale Road

Hernando, Mississippi 38632

On Behalf of the Mass Media Bureau:

Y. PAULETTE LADEN, ESQUIRE

Federal Communications Commission

Hearing Branch

2025 M Street, N.W.

Washington, D.C. 20554



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I N D E X

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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	DIRE
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Jimmy D. Brown		181			177
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P R O C E E D I N G S

JUDGE SIPPEL: Let's go back on the record. This is a hearing conducted under the Administrative Procedure Act to determine whether the Commission has shown cause to revoke the license of Brown Communications to operate AM station WKIJ at Parrish, Alabama.

Under Section 1.91(d) of the Commission's rules, the Commission and in the Commission's stead, the Mass Media Bureau by delegation, has the burden of proceeding and the burden of proof.

Then I'm going to ask Bureau counsel to identify herself, please.

MS. LADEN: Paulette Laden for the Chief of the Mass Media Bureau.

JUDGE SIPPEL: Okay. Good morning, Ms. Laden.

MS. LADEN: Good morning, Judge Sippel.

JUDGE SIPPEL: And on behalf of Brown Communications, sir?

MR. BROWN: Jimmy D. Brown.

JUDGE SIPPEL: Mr. Brown; and you are representing the--

MR. BROWN: Brown Communications, the owner. I am



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1 the owner.

2 JUDGE SIPPEL: Are you appearing here pro se? Do
3 you understand, do you know what that term means?

4 MR. BROWN: I'm representing myself.

5 JUDGE SIPPEL: You are not here with counsel?

6 MR. BROWN: No, sir.

7 JUDGE SIPPEL: And you're willing to go forward
8 without counsel?

9 MR. BROWN: I'm going to do my best.

10 JUDGE SIPPEL: You're willing to go forward then?

11 MR. BROWN: Yes, sir.

12 JUDGE SIPPEL: You're being assisted by someone at
13 the counsel table?

14 MR. BROWN: This is my wife Sherry. She used to
15 be part owner of Brown Communications, too--1 percent.

16 JUDGE SIPPEL: Is she going to be testifying
17 today?

18 MR. BROWN: No, sir. I hadn't planned on asking
19 her any questions or anything like that, no, sir.

20 JUDGE SIPPEL: Do you have any other witnesses?

21 MR. BROWN: No, sir.

22 JUDGE SIPPEL: All right. Good morning, Mr. Brown



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1 and Mrs. Brown.

2 MR. BROWN: Good morning.

3 JUDGE SIPPEL: You will be sworn in to testify at
4 an appropriate point, Mr. Brown, but as, as of this time,
5 you're participating as counsel would on behalf of the
6 applicant.

7 MR. BROWN: Yes, sir.

8 JUDGE SIPPEL: Does the Bureau have, wish any
9 special instruction on that with respect to swearing Mr.
10 Brown?

11 MS. LADEN: No, Your Honor. I would say if Mrs.
12 Brown is going to testify, I would ask for sequestration.

13 JUDGE SIPPEL: He said she is not going to testify
14 unless the Bureau has some questions.

15 MS. LADEN: No, I don't.

16 JUDGE SIPPEL: All right. You understand what,
17 what Bureau counsel has said, that in the event that Mrs.
18 Brown is going to testify after you finish testifying, then
19 we would have to excuse her from the courtroom while you're
20 testifying.

21 MR. BROWN: Not--no, sir. She didn't come to
22 testify. She came--



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1 JUDGE SIPPEL: I understand. I just want you to
2 understand what is going on when she, when Ms. Laden used a
3 word of art called sequestration, and that's what
4 sequestration is about.

5 What I'm simply saying is that if at the time we
6 go forward today, you decide that for some reason or other
7 you want to put Mrs. Brown on the stand, she is not going to
8 be permitted to be in the courtroom while you testify, so
9 you have to have that in mind. When you go up on the stand,
10 if she is going to stay in the courtroom, then she is not
11 going to be permitted to testify.

12 MR. BROWN: I understand.

13 JUDGE SIPPEL: That's just the way the process
14 works.

15 MR. BROWN: Yes, sir.

16 JUDGE SIPPEL: All right. Does the Bureau wish to
17 make a preliminary statement at this time?

18 MS. LADEN: No, Your Honor. We are prepared to
19 introduce our exhibits.

20 JUDGE SIPPEL: Mr. Brown, do you wish to make any
21 kind of a preliminary statement? If you wish to, you may.

22 MR. BROWN: No, sir, not at this time.



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1 JUDGE SIPPEL: Okay. Just for purposes of
2 planning, I expect that we are going to be finished with
3 hearing today. I don't expect it to go beyond one day.

4 My schedule would be something along these lines.
5 I won't hold us to it, to this schedule literally, but I
6 plan to go from 9:30 to 10:45, and then from eleven o'clock
7 until 12 noon, and then if we need to go into the afternoon,
8 from 1:00 to 2:45, and then from three until four.

9 It may very well be that we will be out of here
10 this morning, and if that's the case, if we are making
11 headway and everybody is willing to continue to go forward
12 without a break, we will do it, but if it turns out that we
13 are going to be here for the day, that would be the schedule
14 in general that I would adhere to.

15 All right. Is the Bureau prepared to go forward?

16 MS. LADEN: Yes, Your Honor.

17 JUDGE SIPPEL: All right. You may proceed, Ms.
18 Laden.

19 MS. LADEN: Your Honor, we have previously
20 exchanged all of our exhibits attached to our trial brief.

21 However, I'll give Your Honor and Mr. Brown
22 another copy of it.



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1 JUDGE SIPPEL: For the record, that I do have the
2 trial briefs of both parties, including the Bureau's.

3 MS. LADEN: I just realized, Your Honor, that the
4 exhibits that have multiple pages have not been stapled. I
5 don't have a stapler with me. I don't know if anyone does.

6 JUDGE SIPPEL: Well, the reporter, when we take a
7 break, the reporter can check with my legal technician and
8 work it out. I can handle the copies as they are, and I
9 think at the break we can get the stapling done. There
10 aren't that many exhibits.

11 MS. LADEN: They are paginated, Your Honor, so it
12 is clear there are multiple pages on this.

13 JUDGE SIPPEL: Is that all right with the
14 reporter?

15 THE REPORTER: Sure.

16 JUDGE SIPPEL: All right. You may proceed.

17 MS. LADEN: Your Honor, I would like to have
18 identified for the record as Mass Media Bureau Exhibit 1 a
19 one-page document. It a letter dated June 25, 1991,
20 addressed to Mr. William J. Tricarico, Secretary.

21 JUDGE SIPPEL: Excuse me. Just a minute. That's
22 1990, isn't that correct?



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1 MS. LADEN: Did I not say--

2 JUDGE SIPPEL: You said 1991.

3 MS. LADEN: June 25th, 1990; and the letter is
4 addressed to Mr. William J. Tricarico, Secretary, Federal
5 Communications Commission. It's signed Jimmy D. Brown.

6 JUDGE SIPPEL: That will be identified as the
7 Bureau's Exhibit 1 for identification at this time.

8 Is there any objection to it being received into
9 evidence, Mr. Brown?

10 MR. BROWN: No, sir.

11 JUDGE SIPPEL: This is, then is received into
12 evidence as Bureau's Exhibit No. 1.

13 (MMB Exhibit No. 1 was
14 marked for identification,
15 and was received into
16 evidence.)

17 JUDGE SIPPEL: You may proceed.

18 MS. LADEN: I would like to have identified for
19 the record as Mass Media Bureau Exhibit 2 a letter on
20 Federal Communications Commission letterhead dated July 9,
21 1990, addressed to Brown Communications.

22 JUDGE SIPPEL: That, the reporter will mark that



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1 document as the Bureau's Exhibit No. 2 for identification.

2 MS. LADEN: I would like to offer Mass Media
3 Bureau Exhibit 2 into evidence, Your Honor.

4 JUDGE SIPPEL: Any objection?

5 MR. BROWN: No, sir.

6 JUDGE SIPPEL: Exhibit 2 is received.

7 (MMB Exhibit No. 2 was
8 marked for identification,
9 and was received into
10 evidence.)

11 MS. LADEN: I would like to have identified as
12 Mass Media Bureau Exhibit 3 a letter dated October 8, 1990,
13 signed--addressed to the Federal Communications Commission,
14 signed Jimmy D. Brown.

15 JUDGE SIPPEL: It will be marked for
16 identification as the Bureau's Exhibit No. 3.

17 MS. LADEN: I would like to offer the Bureau's
18 Exhibit 3 into evidence, Your Honor.

19 JUDGE SIPPEL: Is there any objection, Mr. Brown?
20 Do you have the document in front of you?

21 MR. BROWN: Yes, sir. This letter is October 8,
22 1990?



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1 MS. LADEN: That is correct.

2 MR. BROWN: Yes, sir.

3 JUDGE SIPPEL: Any objection?

4 MR. BROWN: No, sir.

5 JUDGE SIPPEL: Exhibit 3 is received in evidence
6 at this time.

7 (MMB Exhibit No. 3 was
8 marked for identification,
9 and was received into
10 evidence.)

11 MS. LADEN: I would like to have marked for
12 identification Mass Media Bureau Exhibit 4. It's a one-page
13 document on Federal Communications Commission letterhead
14 dated October 30, 1990. It's a letter addressed to Brown
15 Communications.

16 JUDGE SIPPEL: That will be marked as Bureau
17 Exhibit No. 4 for identification.

18 MS. LADEN: I would like to offer Mass Media
19 Bureau Exhibit 4.

20 JUDGE SIPPEL: Is there any objection, Mr. Brown?

21 MR. BROWN: No, sir.

22 JUDGE SIPPEL: It's received into evidence as



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1 Exhibit 4.

2 (MMB Exhibit No. 4 was
3 marked for identification,
4 and was received into
5 evidence.)

6 MS. LADEN: I would like to have marked for
7 identification as Mass Media Bureau Exhibit 5 a one-page
8 document, a letter on Federal Communications Commission
9 letterhead dated December 18, 1990, addressed to Jimmy D.
10 Brown.

11 JUDGE SIPPEL: That document will be so marked as
12 Mass Media Bureau Exhibit 5 for identification.

13 MS. LADEN: I would like to offer Mass Media
14 Bureau Exhibit 5.

15 JUDGE SIPPEL: Any objection, Mr. Brown?

16 MR. BROWN: No, sir.

17 JUDGE SIPPEL: It's received in evidence as the
18 Bureau's Exhibit 5.

19 (MMB Exhibit No. 5 was
20 marked for identification,
21 and was received into
22 evidence.)



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1 MS. LADEN: I would like to have marked for
2 identification a one-page--as Mass Media Bureau Exhibit 6 a
3 one-page document. It's a letter addressed to the Federal
4 Communications Commission dated April 25, 1991, signed or I
5 should say on the signature line is typed in the name Jimmy
6 D. Brown.

7 JUDGE SIPPEL: That document will be marked at
8 this time as the Bureau's Exhibit No. 6 for identification.

9 MS. LADEN: I would like to offer Mass Media
10 Bureau Exhibit 6 into evidence.

11 JUDGE SIPPEL: Objection, Mr. Brown?

12 MR. BROWN: No, sir.

13 JUDGE SIPPEL: Exhibit, the Bureau's Exhibit 6 is
14 hereby received in evidence.

15 (MMB Exhibit No. 6 was
16 marked for identification,
17 and was received into
18 evidence.)

19 MS. LADEN: I would like to have identified for
20 the record as Mass Media Bureau Exhibit 7 a one-page
21 document, a letter on Federal Communications Commission
22 letterhead dated May 16, 1991 addressed to Jimmy D. Brown.



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1 JUDGE SIPPEL: That will be marked as the Bureau's
2 Exhibit No. 7 for identification.

3 MS. LADEN: I would like to offer Mass Media
4 Bureau Exhibit 7.

5 JUDGE SIPPEL: Any objection?

6 MR. BROWN: No, sir.

7 JUDGE SIPPEL: Exhibit 7 is received in evidence.

8 (MMB Exhibit No. 7 was
9 marked for identification,
10 and was received into
11 evidence.)

12 MS. LADEN: I would like to have identified as
13 Mass Media Bureau Exhibit 8 a one-page document, a letter
14 dated August 16, 1991, addressed to the Federal
15 Communications Commission, signed Jimmy D. Brown.

16 JUDGE SIPPEL: It's--the document will be so
17 marked as the Bureau's Exhibit 8 for identification.

18 MS. LADEN: I would like to offer at this time
19 Mass Media Bureau Exhibit 8.

20 JUDGE SIPPEL: Any objection, Mr. Brown?

21 MR. BROWN: No, sir.

22 JUDGE SIPPEL: It is received in evidence as the



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1 Bureau's Exhibit 8.

2 (MMB Exhibit No. 8 was
3 marked for identification,
4 and was received into
5 evidence.)

6 MS. LADEN: I would like to have marked for
7 identification as Mass Media Bureau Exhibit 9 a one-page
8 document, a letter on Federal Communications Commission
9 letterhead dated August 29, 1991, addressed to Jimmy D.
10 Brown.

11 JUDGE SIPPEL: That document will be marked as the
12 Bureau's Exhibit 9 for identification.

13 MS. LADEN: I would like to offer the Bureau's
14 Exhibit 9.

15 JUDGE SIPPEL: Is there any objection?

16 MR. BROWN: No, sir.

17 JUDGE SIPPEL: It's received in evidence at this
18 time as Bureau Exhibit No. 9.

19 (MMB Exhibit No. 9 was
20 marked for identification,
21 and was received into
22 evidence.)



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1 MS. LADEN: I would like to have identified for
2 the record as Mass Media Bureau Exhibit 10 a two-page
3 document on Federal Communications Commission letterhead
4 dated June 24, 1991, addressed to Brown Communications.

5 THE WITNESS: That document will be so marked as
6 the Bureau's Exhibit 10.

7 MS. LADEN: I would like to offer Mass Media
8 Bureau Exhibit 10 into evidence.

9 JUDGE SIPPEL: Any objection?

10 MR. BROWN: No, sir.

11 JUDGE SIPPEL: It's received into evidence at this
12 time as Exhibit 10.

13 MS. LADEN: I would like--

14 JUDGE SIPPEL: That is the Bureau's Exhibit 10.
15 Go ahead.

16 (MMB Exhibit No. 10 was
17 marked for identification,
18 and was received into
19 evidence.)

20 MS. LADEN: I would like to have identified as
21 Mass Media Bureau Exhibit 11 a one-page document, Federal
22 Communications Commission form titled "Change in Official



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1 Mailing Address for Broadcast Station." It's marked as
2 received by the Mail Branch. The date is difficult to read,
3 but it's in December 1988.

4 JUDGE SIPPEL: The document will be so marked for
5 identification as Bureau's Exhibit No. 11. The date does
6 appear to be December 5, 1988.

7 MS. LADEN: I would like to offer Exhibit 11 into
8 evidence.

9 JUDGE SIPPEL: Is there any objection?

10 MR. BROWN: No, sir.

11 JUDGE SIPPEL: Then that's received into evidence
12 as Exhibit 11.

13 (MMB Exhibit No. 11 was
14 marked for identification,
15 and was received into
16 evidence.)

17 MS. LADEN: I would like to have identified as
18 Mass Media Bureau Exhibit 12 an eight-page document which
19 consists of the Mass Media Bureau's Request for Admissions
20 filed May 1, 1992.

21 This document has several attachments which are
22 duplicative of separate exhibits that I have introduced into



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1 the record.

2 JUDGE SIPPEL: They are identified as attachments,
3 however?

4 MS. LADEN: They are identified herein as
5 attachments that were attached to the original Request for
6 Admissions.

7 JUDGE SIPPEL: All right. The document is
8 numbered sequentially as well as the pages are numbered 1
9 through 8, is that correct?

10 MS. LADEN: That is correct, Your Honor.

11 JUDGE SIPPEL: That's identified. That eight-page
12 document then is, will be marked for identification as the
13 Bureau's Exhibit No. 12.

14 You wish to offer that into evidence at this time?

15 MS. LADEN: Yes, Your Honor.

16 JUDGE SIPPEL: Is there any objection?

17 MR. BROWN: No, sir.

18 JUDGE SIPPEL: Then Exhibit 12 of the Bureau's is
19 received in evidence at this time.

20 (MMB Exhibit No. 12 was
21 marked for identification,
22 and was received into



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evidence.)

MS. LADEN: I would like to have identified for the record as Mass Media Bureau Exhibit 13 a two-page document. It's dated May 6, 1992, and it consists of a response to the Bureau's admissions. It's signed on page 2 Jimmy D. Brown.

JUDGE SIPPEL: All right. The Bureau--the reporter will so mark that two-page document as the Bureau Exhibit No. 13 for identification.

MS. LADEN: Your Honor, I would like to offer the Bureau's Exhibit 13 into evidence at this time.

JUDGE SIPPEL: Any objection, Mr. Brown?

MR. BROWN: No, sir.

JUDGE SIPPEL: Exhibit 13 is received into evidence.

(MMB Exhibit No. 13 was marked for identification, and was received into evidence.)

MS. LADEN: I would like to have marked for the record as Mass Media Bureau Exhibit 14 FCC form entitled, "Change in Official Mailing Address for Docketed Cases."



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1 It bears a received stamp from the Secretary's
2 office with the date of April 27, 1992. It is a one-page
3 document.

4 JUDGE SIPPEL: That will be marked at this time as
5 the Bureau's Exhibit No. 14 for identification.

6 MS. LADEN: I would like to offer the Bureau's
7 Exhibit 14 into evidence, Your Honor.

8 JUDGE SIPPEL: Any objection?

9 MR. BROWN: No objection, Your Honor.

10 JUDGE SIPPEL: It's received into evidence at this
11 time as the Bureau's Exhibit 14.

12 (MMB Exhibit No. 14 was
13 marked for identification,
14 and was received into
15 evidence.)

16 MS. LADEN: I would like to have identified for
17 the record as Mass Media Bureau Exhibit 15 a one-page
18 document which is a photocopy of a return receipt card.
19 Both sides are shown side by side on this document.

20 JUDGE SIPPEL: We will mark that for
21 identification as the Bureau's Exhibit 15.

22 MS. LADEN: I should say for identification



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1 further, Your Honor, that it's shown to be, have been
2 received by the FCC's Mail Branch on April 28th, 1992.

3 JUDGE SIPPEL: I see the April 28th date. There
4 is a--

5 MS. LADEN: I don't see the date, the year stamp
6 either, Your Honor. I just assume it's '92 from my own
7 knowledge of what this represents, but I don't know whether
8 the 2 is--at first I thought the 2 represented the year, but
9 Mass Media Bureau Exhibit 16 has a 3 at that point. Perhaps
10 for identification I should say that the stamp bears the
11 date April 28.

12 JUDGE SIPPEL: Well, for identification, that will
13 be fine, but I'm wondering if Mr. Brown would be prepared to
14 stipulate that that was an April 28, 1992 date?

15 Do you know what I mean by stipulate? In other
16 words, that there be no argument about the fact that that
17 was in 1992.

18 MR. BROWN: Your Honor, I see the 1992 on my copy.

19 JUDGE SIPPEL: You know what the document is?

20 MR. BROWN: It's where I received a letter from
21 the Commission, Your Honor, since it's certified mail I
22 believe.



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1 MS. LADEN: Your Honor, it shows an attention to
2 Paulette Laden, and I was not assigned the case until 1992.

3 JUDGE SIPPEL: Well, I think it is probably--there
4 will probably be a lot of extra records, ways of
5 establishing this, but I mean right now Mr. Brown is focused
6 on it, you say you have a copy before you that shows clearly
7 it is 1992 and you don't have any argument about that?

8 MR. BROWN: I don't have any argument about it,
9 sir. I see 92 on both copies. If you will look right under
10 sender instruction, about middleways under United States
11 Postal Service, you will see that there is a 92.

12 JUDGE SIPPEL: It's a little bit unclear on my
13 copy, but I will accept that on the basis of counsel's
14 representations and your own that this document is a 1992
15 document, and it clearly bears the date April 28th from what
16 I see, so Exhibit 15 is so identified at this time.

17 MS. LADEN: I would like to offer Mass Media
18 Bureau Exhibit 15.

19 JUDGE SIPPEL: Any objection?

20 MR. BROWN: No, sir.

21 JUDGE SIPPEL: It's received into evidence at this
22 time as the Bureau's Exhibit 15.



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